



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,107	02/05/2001	Thomas F. Collura	73546/06356	3942

7590 04/05/2005

JAMES C. SCOTT, ESQ  
ROETZEL & ANDRESS  
1375 E. 9TH STREET  
ONE CLEVELAND CENTER, 10TH FLOOR  
CLEVELAND, OH 44114

EXAMINER

FOREMAN, JONATHAN M

ART UNIT	PAPER NUMBER
----------	--------------

3736

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

# Office Action Summary

Application No.

09/777,107

Applicant(s)

COLLURA ET AL.

Examiner

Jonathan ML Foreman

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

New grounds of rejection are contained within this Office Action. Accordingly this action has been made Non-Final.

#### *Claim Objections*

1. Claims 21, 22, 25 and 26 objected to because of the following informalities: each of the following limitation lacks antecedent basis in the claim: Claim 21, line 10 “the first remote input node”; Claim 21, lines 12 – 13 “the remote input means”; Claim 21, line 16 “the first-level input” and “the remote feedback output”; Claim 21, lines 18 – 19 “the primary input node” and “the first-level feedback output”; Claim 22, lines 2 – 3 “the local node” and “first-level input node”; Claim 25, line 6 “the second remote feedback node”; and Claim 26, line 2, “the first-level input node”.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 21 – 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 21 as well as dependent claim 25 contain limitations related to both an apparatus and the method steps of using the apparatus. Claims 21 and 25 and all claims dependent thereon are therefore indefinite. *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App & Inter. 1990).

Additionally, line 14 of claim 25 states “the remote feedback node”; line 2 of claim 26 states “the remote node”; and line 7 of claim 28 states “the remote feedback node”. It is unclear if these

Art Unit: 3736

limitations are referring to the first or second remote feedback node. Line 3 of claim 28 states, “the data node”. It is unclear which data node is being referred to. Line 9 of claim 28 states, “the second remote node”. It is unclear which of the second remote nodes is being referred to.

### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21 – 30 are rejected under 35 U.S.C. 101 because claims 21 – 30 are directed to neither a “process” nor a “machine”, but rather embrace or overlap two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. MPEP 2173.05(p).

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

Application Publication No. 2002/0021283 to Rosenberg et al.

In regards to claims 14 – 20, Rosenberg et al. discloses an input means (616) for receiving data from a user; an output means (614) for communicating feedback to a user; a primary local loop having an input connected to the input means and an output connected to the output means; a

Art Unit: 3736

secondary local loop having an input connected to the input of the primary local loop and an output connected to the output of the primary local loop; and a primary remote loop having an input connected to the input of the secondary local loop and an output connected to the secondary local loop output [0099]-[0101]; [0216]-[0218]. The input of the primary remote loop and the input of the secondary local loop are connected by the Internet; and the output of the primary remote loop and the output of the secondary local loop are connected by the Internet. A secondary remote loop has an input connected to the input of the primary remote loop and an output connected to the output of the primary remote loop [0099]-[0101]; [0216]-[0218]. Data is communicated at a remote output and input is received from the remote location [0217]. Rosenberg et al. discloses a local database and a remote database [0086].

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,394,904 to Stalker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JMLF



MAX F. HINDENBURG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700